

ITEM # _____

**SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM**

SUBJECT: Gassey Jack's PCD, Major Amendment to Preliminary Master Plan
(Michael B. Myers, applicant)

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Matthew West **CONTACT:** Jeff Hopper **EXT.** 7431

Agenda Date 9/03/03 **Regular** ☐ **Work Session** ☐ **Briefing** ☐
Special Hearing – 6:00 ☐ **Public Hearing – 7:00** ☒

MOTION/RECOMMENDATION:

1. Recommend APPROVAL of a revision to the Preliminary Master Plan for Gassey Jack's, located on approximately 3.6 acres at the northwest corner of SR 46 and Elder Road, per conditions listed in the attached addendum to the Developer's Commitment Agreement (Michael Myers, applicant); or
2. Recommend DENIAL of a revision to the Preliminary Master Plan for Gassey Jack's, located on approximately 3.6 acres at the northwest corner of SR 46 and Elder Road, (Michael Myers, applicant); or
3. Continue the public hearing until a time and date certain.

(District 5 – Commissioner McLain)

(Jeff Hopper, Senior Planner)

BACKGROUND:

The applicant, Michael Myers, is requesting to revise the Myers Commercial and Office Park PCD Preliminary Master Plan, also known as "Gassey Jack's," in order to permit outdoor sound amplification at a 26,000 square foot restaurant. The site is approximately 3.61 acres in size and is designated as High Intensity Planned Development (HIP) under the Vision 2020 Plan.

STAFF RECOMMENDATION:

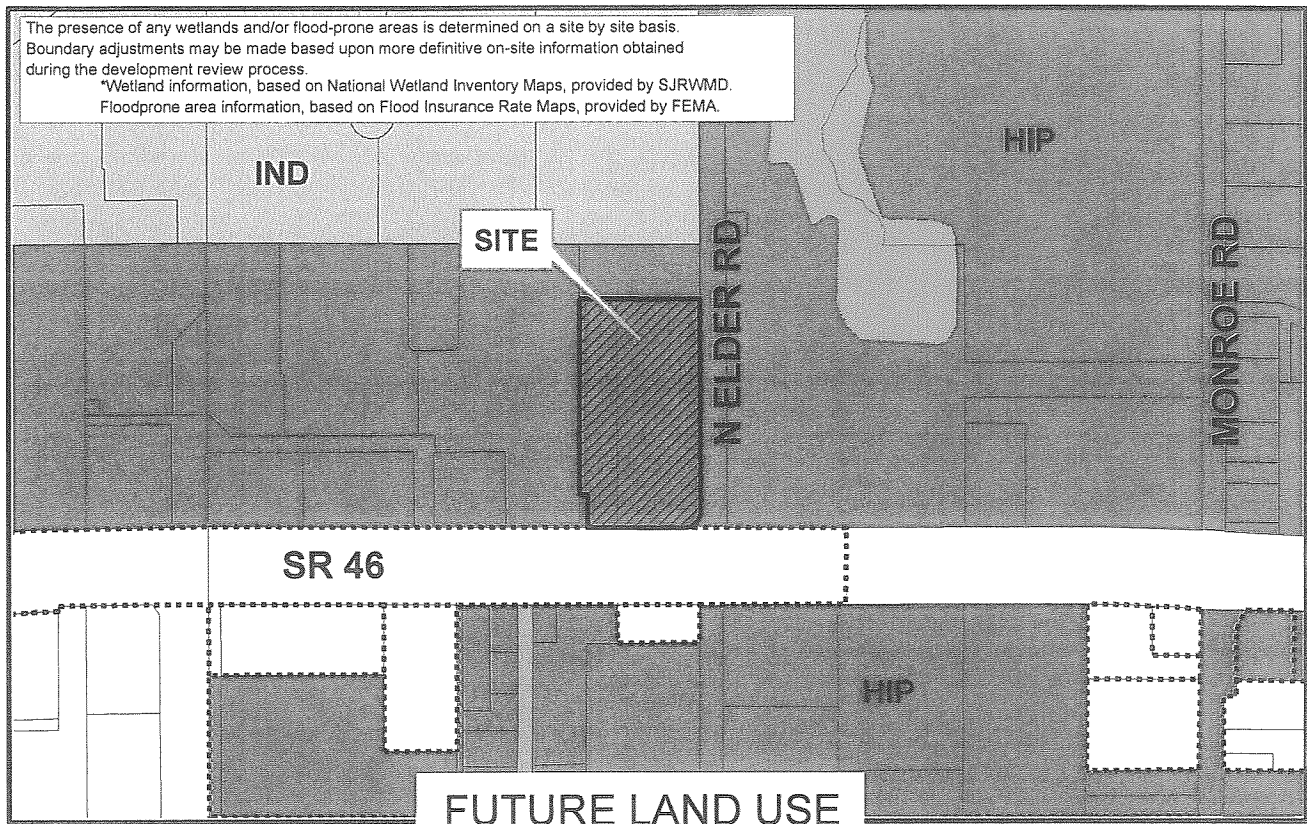
Staff recommends APPROVAL of the request per the attached staff report and addendum to the Developer's Commitment Agreement.

Reviewed by:
Co Atty: _____
DFS: _____
OTHER: _____
DCM: _____
CM: _____

File No. Z1988-069

The presence of any wetlands and/or flood-prone areas is determined on a site by site basis.
Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.

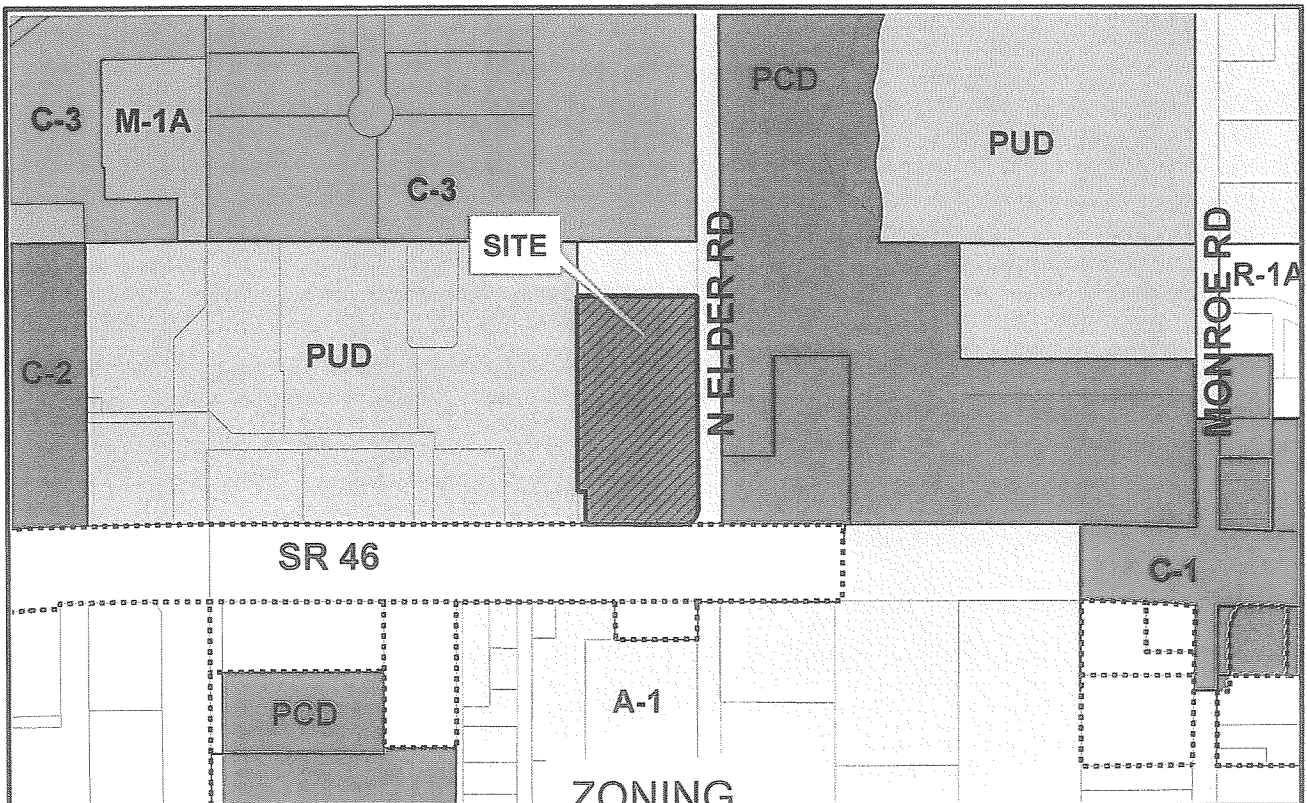
*Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.
Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



Site
 Municipality
 IND
 HIP
 CONS
 PUBC

Applicant: Michael B. Myers
 Physical STR: 16-19-30-5AC-0000-099C
 Gross Acres: +/- 3.04 BCC District: 5
 Existing Use: Vacant
 Special Notes: PCD Major Amendment



	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z1988-069	PCD	PCD



Site
 Municipality
 A-1
 C-1
 C-2
 C-3
 M-1A
 PCD
 PUD
 R-1A



Rezone No: Z1988-069
From: PCD To: PCD

 Parcel
 Subject Property



February 1999 Color Aerials

GASSEY JACK'S

REQUEST INFORMATION		
APPLICANT	Michael B. Myers	
PROPERTY OWNER	Michael B. Myers	
REQUEST	Major Amendment to PCD Preliminary Master Plan	
HEARING DATE(S)	P & Z: September 3, 2003	BCC: October 14, 2003
SEC/TWP/RNG	16-19-30-5AC-0000-099C 16-19-30-5AC-0000-0990	
LOCATION	Northwest corner of N. Elder Rd. and SR 46	
FUTURE LAND USE	Higher Intensity Planned Development (HIP)	
FILE NUMBER	Z1988-069	
COMMISSION DISTRICT	District 5 (McLain)	

OVERVIEW

Zoning Request: The applicant, Michael Myers, is requesting to revise the Myers Commercial and Office Park PCD Preliminary Master Plan, also known as "Gassey Jack's," in order to permit outdoor sound amplification at a restaurant. The site is approximately 3.61 acres and is designated as High Intensity Planned Development (HIP) under the Vision 2020 Plan.

The PCD was originally approved in 1991 for retail, office and storage uses, and amended in January 2003 to permit a restaurant. The approved site plan for the facility shows approximately 26,000 square feet of building area, including enclosed floor area and open patio area. Included within this total is a stage 569 square feet in size, adjacent to an open courtyard of approximately 1,700 square feet.

This stage and courtyard area is the location of the applicant's proposal for outdoor musical performances, using sound amplification, as a supporting use to the restaurant. Proposed operating hours for this use would be 10 a.m. – 2 a.m. Monday through Saturday, and 10 a.m. – midnight on Sunday. Information supplied by the applicant indicates that the courtyard area would be enclosed on three sides by the restaurant building. The open fourth side would face east toward Elder Road.

Of primary concern is the potential of this proposal to disturb the occupants of any nearby residential properties. As the subject property and most surrounding properties are in the HIP land use designation, residential uses are not common in the area. However, they are present within a few hundred feet of the site.

Several parcels in the A-1 classification are in use as residential to the south of SR 46, in the range of 600-700 feet from the proposed stage location. Otherwise, the nearest organized residential development is the Seminole Pointe apartment complex, located 800-1,000 feet east of the site. Already existing on intervening property is BJ's

Warehouse, a substantial structure which may buffer amplified sound emanating from the Gassey Jack's site.

In order to protect residential uses from possible disturbance generated by this proposal, some limitations on noise levels, as measured at the property lines, should be considered. The following table summarizes noise levels of commonly heard sounds:

Noise Source	Decibels
Rocket launching pad	180
Jet plane	140
Gunshot blast	140
Automobile horn	120
Sandblasting	112
Rock Band	110
Pneumatic drill	100
Average factory	80-90
Noisy restaurant	80
Conversational speech	66
Average home	50
Quiet office	40
Soft Whisper	30

The subject property lies a significant distance from existing residential uses. Also, the HIP future land use designation visualizes commercial and light industrial uses for the general vicinity of this restaurant. Staff believes that, subject to specified hours and a noise limit of 70 decibels, the proposal is reasonable and consistent with expected patterns of development in this area.

Existing Land Uses: The existing zoning designations and land uses are as follows:

	Zoning	Future Land Use	Existing Land Use
North	A-1	HIP	Vacant
South	City / A-1	City / HIP	SR 46 / commercial
East	PCD	HIP	Commercial
West	PUD	HIP	Vacant

For more detailed information regarding zoning and land use, please refer to the attached map.

SITE ANALYSIS

Facilities and Services:

1. Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified.

2. The proposed PCD amendment is consistent with the adopted future land use designation assigned to the property, and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Vision 2020 Plan.

Compliance with environmental regulations: At this time there are no concerns regarding compliance with environmental regulations.

Compatibility with surrounding development: The proposed PCD amendment is compatible with surrounding and commercial development.

STAFF RECOMMENDATION

Staff recommends approval of the requested PCD Major Amendment subject to the following conditions:

1. Live music with outdoor amplification shall be permitted only as an accessory to the permitted restaurant use.
2. Outdoor sources of amplified sound shall be enclosed by a building on at least three (3) sides and meet the following setbacks:

North	250 feet
East	180 feet
South	220 feet
West	50 feet
3. Operating hours shall be limited to:

10:00 a.m. – midnight Friday and Saturday
10:00 a.m. – 10 p.m. Sunday - Thursday
4. Sound levels shall not exceed 70 decibels as measured at the nearest property line.
5. Any expansion or relocation of this use shall require approval of the Board of County Commissioners.

Addendum #2
To The Myers Commercial and Office Park PCD
Final Master Plan Developer's Commitment Agreement

On October 14, 2003 the Board of County Commissioners of Seminole County issued this amendment to the Myers Commercial and Office Park Developers Commitment Agreement ("Myers PCD"), relating to and concerning and binding the following real property situated in Seminole County, Florida:

II. Statement of Basic Facts:

C. Specific Uses: Live musical performances with outdoor sound amplification shall be permitted accessory to a restaurant use.

III. Building and Lot Restrictions:

Live outdoor musical performances shall be enclosed by a building on at least three (3) sides and shall be set back from property lines as follows:

North	250 feet
East	180 feet
South	220 feet
West	50 feet

Any expansion or relocation of this use shall require approval of the Board of County Commissioners.

VII. Permitted and Conditional Uses:

C. Live musical performances with outdoor sound amplification shall be permitted only as an accessory use to a restaurant. Sound levels shall not exceed 70 decibels as measured at the nearest property line. Operating hours shall be limited to:

10:00 a.m. – midnight Friday and Saturday
10:00 a.m. – 10 p.m. Sunday - Thursday

Done and Ordered this 14th day of October, 2003.

By: _____
Daryl G. McLain
Chairman
Seminole County Board of County Commissioners

Attest:

Maryanne Morse
Clerk to the Board of County Commissioners

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Michael B Myers, on behalf of himself and his heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Developer's Commitment Agreement.

Witness

MICHAEL B. MYERS

Print Name

Witness

Print Name

STATE OF FLORIDA

COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared MICHAEL B. MYERS, and is personally known to me or who has produced _____ as identification and who acknowledged and executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2003.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Jacqueline M. Myers, on behalf of herself and her heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Developer's Commitment Agreement.

Witness

JACQUELINE M. MYERS

Print Name

Witness

Print Name

STATE OF FLORIDA

COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JACQUELINE M. MYERS, and is personally known to me or who has produced _____ as identification and who acknowledged and executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2003.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

:

MYERS COMMERCIAL AND OFFICE PARK

DEVELOPERS COMMITMENT AGREEMENT

DATE APPROVED BY
BOARD OF COUNTY COMMISSIONERS - January 8, 1991

I. Legal Description:

THE EAST 1/2 OF LOT 99, LESS THE NORTH 132 FEET OF FLORIDA LAND AND COLONIZATION COMPANY LIMITED W. BEARDALL'S MAP OF ST. JOSEPH'S ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 114, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, LESS RIGHT-OF-WAY FOR STATE ROAD 46 AND ELDER ROAD.

II. Statement of Basic Fact:

- A. Total Acreage = 3.76 acres, more or less.
- B. Projected Total Building Square Footage = 35,340 sq. ft.
- C. Permitted Specific Uses = Retail Center, Office, Convenience Store with Car Wash and Gas Pumps, Storage and Conversion of the Existing House to Office

III. Building and Lot Restrictions:

Building Setbacks: Existing residence to be converted to office, the setbacks are existing.

Setbacks for future development to be per adopted code at time of final site plan approval.

Maximum Building Height = 35 Feet

IV. Landscaping and Buffers:

Landscaping will be provided as per Seminole County Code. Five (5) foot wide buffers are provided on the east and south property lines. Ten (10) foot buffers are provided on the north and west property lines.

V. Off-site Improvements:

- A. Dedication of a 40 foot half right-of-way along Elder Road with a corner clip at Elder Road and State Road 46.
- B. Installation of a left turn lane at the intersection of Elder Road and State Road 46 prior to the issuance of the first Certificate of Occupancy with the exception of the existing building conversion to office use.
- C. Installation of left turn lane at the project entrance on Elder Road.
- D. Proposed construction of a 24 foot wide paved road on Elder Road from State Road 46 to the northernmost access drive as submitted.

VI. Facility Commitments:

- A. Water and Sewer: Potable water and wastewater service by Seminole County Environmental Services. The cost of all line extensions and cost to upgrade the existing lift station as necessary to serve this project will be borne by the Developer.
- B. The existing house conversion to office may utilize septic tanks and ground water wells. Any additional commercial or office development to this site will require the entire project to be connected to public water and sewer.
- C. Installation of fire hydrant or on-site water storage tank no later than May 1, 1992 or prior to a new owner or occupant of the existing office conversion. New development to connect to public water with installation of a fire hydrant.

VII. Permitted and Conditional Uses:

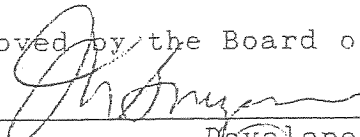
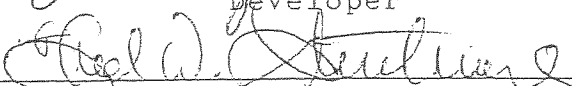
- A. Permitted and conditional uses of this project are those listed under the Office District (OP) and Retail Commercial (C-2) classifications in the Seminole county Land Development Code. In addition to those uses permitted are gas pumps, car wash and drive through restaurants.
- B. Conversion of the house structure for office uses is permitted.

VIII. Other Commitments:

- A. Unless specifically addressed in this agreement, all development shall fully comply with all the codes and ordinances, including impact fee ordinances, in effect in Seminole County at the time of issuance of any permit.
- B. Developer Definition: When the term "Developer" is used herein, same shall be taken or constructed to mean Michael Myers. All obligations, liabilities, and responsibilities incurred by or implied by any successors in interest as the overall Development of the Planned Commercial Development.
- C. The Final Site Plan may be revised in the future to include up to 16,000 square feet of retail, 17,000 square feet of office, 1,250 square feet of storage and 1,800 square feet for a convenience store with car wash and gas pumps as depicted on Preliminary Site Plan submitted January 14, 1989 by Harling Locklin & Associates. (Job 88-66)
- D. Maximum sign height shall be 15 feet.
- E. Dedication of cross-access easement/joint use drive during Final Master Plan approval for future development.

Page Four

Approved by the Board of County Commissioners on January 8, 1991

 Developer	<u>12-15-90</u> Date
 Board of County Commissioners Seminole County, Florida	<u>1-9-91</u> Date

BK 167 PG 0547

FILED IN OFFICE
CTY. COMMISSION RECORDS
HARVARD OFFICE
91 JAN 10 AM 9:49
BY
CLERK TO B.C.C.
SEMINOLE CO. FL.
D.C.
cc

AMENDMENT TO MYERS COMMERCIAL AND OFFICE PARK
DEVELOPERS COMMITMENT AGREEMENT

On January 28, 2003 the Board of County Commissioners of Seminole County issued this amendment to the Myers Commercial and Office Park Developers Commitment Agreement ("Myers PCD"), relating to and concerning and binding the following real property situated in Seminole County, Florida:

I. Legal Description

THE EAST ½ OF LOT 99, LESS THE NORTH 132 FEET OF FLORIDA LAND AND COLONIZATION COMPANY LIMITED W. BEARDALL'S MAP OF ST. JOSEPH'S ACCORDING TO THE PLAT BOOK J, PAGE 114, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, LESS RIGHT-OF-WAY FOR STATE ROAD 46 AND ELDER ROAD.

II. Amendments

The following requirements and specifications shall be construed as additional requirements and specifications of the Myers PCD. In the event of a conflict between the provisions of this Amendment and the Myers PCD, this Amendment shall govern.

III. Developer Definition

When the term "Developer" is used in this amendment, same shall be taken or construed to mean Michael Myers, his heirs, successors or assigns.

IV. Statement of Basic Fact:

A.	Total acreage	3.61 acres, more or less.
B.	Building square footage	22,105 square feet/Main Building 3,474 square feet/Cabin & Pavilion
C.	Specific Use	Proposed Restaurant

V. Building and Lot Restrictions:

Building setbacks shall comply with State Road 46 Gateway Corridor Overlay.

VI. Landscaping and Buffers:

Landscaping will be provided as per Seminole County Land Development Code and the State Road 46 Gateway Corridor Overlay.

VII. Water and Sewer:

Potable water and wastewater service by Seminole County Environmental Services. The cost of all line extensions and cost to upgrade the existing lift station as necessary to serve this project will be borne by the Developer.

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY Eva Beach
DEPUTY CLERK

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY, CFN 200303290 BK 04700 PG 1199 RECD 02/10/2003 09:34:12 AM RECD BY J Eckenroth

OWNER'S CONSENT AND COVENANT

The undersigned party hereby agrees to the terms and conditions set forth herein this _____ day of _____, 2003.

Kathy Fall
Witness

Michael Myers
Michael Myers, Property Owner

Kathy Fall
Print Name

Bernadette M. Smith
Witness

Bernadette M. Smith
Print Name

STATE OF FLORIDA)

COUNTY OF SEMINOLE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared, Michael Myers, who is personally known to me or who has produced personally known as identification and who did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of January, 2003.

Nancy G. Baillargeon
Notary Public, in and for the County and State
Aforementioned

My Commission Expires: August 28, 2006



Nancy G. Baillargeon
My Commission DD144949
Expires August 26, 2006